



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

SEP 18 2000

Richard J. Traverso
Millen, White, Zelano & Branigan, P.C.
Arlington Courthouse Plaza I, Suite 1400
2200 Clarendon Boulevard
Arlington, VA. 22201

In re Application of
QUARTARARO, et al.
PCT No.: PCT/FR97/02005
U.S. Application No.: 09/297,737
Int. Filing Date: 07 November 1997
Priority Date: 07 November 1996
Attorney Docket No.: PET 1761
For: CATALYST HAVING AT LEAST ONE
ELEMENT OF GROUP VIIB AND ITS
USE HYDRO-TREATING

DECISION ON REQUEST
TO WITHDRAW NOTIFICATION
OF ABANDONMENT

This decision is in response to applicant's, "Request to Withdraw an Incorrect Notice of Abandonment" filed on 06 March 2000. The request is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 07 November 1997, applicant filed international application PCT/FR97/02005, which claimed priority of an earlier application filed 07 November 1996. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 June 1998, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 07 May 1999.

On 07 May 1999, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a translation of the International Application into English as required by 35 U.S.C. 371(c)(2). An oath or declaration as required by 35 U.S.C. 371 (c)(4) was not included.

On 22 June 1999, applicant was mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) advising applicant that an oath or declaration of the inventors was missing from the application. The notification set a ONE (1) MONTH period for response.

Application No.: 09/297,737

On 04 February 2000, applicant was mailed a Notification of Abandonment for having failed to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905).

On 06 March 2000, applicant filed the present petition requesting withdrawal of the holding of abandonment.

DISCUSSION

The Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received. The Petition must also be accompanied by (4) copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Applicants' petition fails to satisfy items (2)-(4) above. Applicants' counsel attests that the Office action was not received and submits a printout from counsel's computer docketing system showing the "Application Status Check" is still an open item for the above-identified application. However, applicant has not indicated that a search of the file jacket has been performed. In addition, applicant has not provided copies of the docket records where the non-received Office action would have been entered. Applicant must provide a copy of the docket record for **all** communications received at the practitioner's office having a due date of 22 July 1999.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

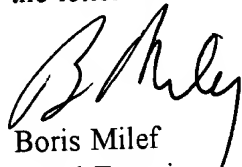
CONCLUSION

The Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 has been considered, however, for the reasons indicated above, the petition stands **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

Any renewed petition filed must include a proper reply. A proper reply must include a copy of the docket record for all communications received at practitioner's office having a due date of 22 July 1999.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



Boris Milef
Legal Examiner
PCT Legal Office



Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459